


2-14-03  
DT Rec'd PCT/PTO 13 FEB 2003  
#5

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope as "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R.1.10, Mailing Label No. EL744396765US and is addressed to the: Assistant Commissioner for Patents, Washington, D. C. 20231.

Date: February 13, 2003

  
Willburn Liddell, Jr.

PATENT  
216019-61 (98,664-B)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: BAUM et al.  
Serial No.: 09/831,621  
Filed: November 10, 1999  
Title: Novel DNA's And Polypeptides

Art Unit:  
  
Examiner:

REQUEST FOR PERMISSION TO WITHDRAW AS  
ATTORNEY OF RECORD (37 C.F.R. § 10.40(c))

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned attorney, on behalf of himself and the other attorneys of record, who are members or associates in the firm of O'MELVENY & MYERS LLP, or who were so listed at the time of their appointment, and on behalf of any attorneys appointed by any of the attorneys on whose behalf this petition is filed, requests the approval of the Commissioner to withdraw as attorneys of record.

The attorneys on whose behalf this request to withdraw is filed include:

BERLINER, Brian M., Registration No. 34,549  
AJALAT, Christiana M., Registration No. 50,956  
DALKE, David, Registration No. 40,980  
FITZSIMMONS, Todd E., Registration No. 44,683  
HSUEH, Peter C., Registration No. 45,574  
JAECH, Jonathan A., Registration No. 41,091  
MILLER, Mark E., Registration No. 31,401  
SCHRADER, Scott A., Registration No. 47,928  
YAGURA, Ryan K., Registration No. 47,191

Serial No. 09/831,621  
February 13, 2003  
Page 2

The present mailing address of the attorneys of record is:

O'MELVENY & MYERS LLP  
400 South Hope Street  
Los Angeles, CA 90071-2899

This application has been assigned to Digital Gene Technologies, Inc.  
(Reel/Frame No. 012433/0814). The present mailing address of the Assignee is:

DIGITAL GENE TECHNOLOGIES, INC.  
11149 North Torrey Pines Road,  
Suite 110  
La Jolla, CA 92037

Items pertinent to the request for withdrawal are set forth below.

1. Basis For Withdrawal Request. The basis for the request for withdrawal is 37 C.F.R. 10.40(c)(1)(vi), failure to pay bills rendered by the attorneys of record for an unreasonable period of time.
2. Notification Of Client: In accordance with 37 C.F.R. § 10.40(a), copies of this request are being sent to the Assignee.

At least thirty (30) days remain for the Assignee to take any action due in this case or an appropriate request for extension of time accompanies this request seeking additional time. The attorneys on whose behalf this petition is filed will ensure that the Assignee has sufficient time after approval of this request to reply or employ another to reply to any outstanding requirement of the U.S. Patent and Trademark Office.

3. Number Of Copies Of Request. This request is enclosed in triplicate.

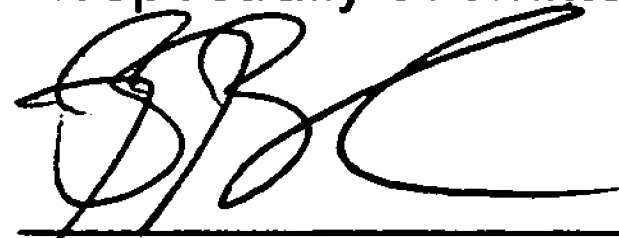
Serial No. 09/831,621  
February 13, 2003  
Page 3

Further communications regarding this application should be directed to the Assignee at the following address:

DIGITAL GENE TECHNOLOGIES, INC.  
11149 North Torrey Pines Road  
Suite 110  
La Jolla, CA 92037

Signature of the authorized attorney on behalf of himself and the other attorneys of record of the withdrawing firm, O'Melveny & Myers LLP.

Respectfully submitted,



---

Brian M. Berliner  
Authorized Attorney  
Registration No. 34,549

Date: February 13, 2003

**O'MELVENY & MYERS LLP**  
400 South Hope Street  
Los Angeles, CA 90071-2899  
Telephone: (213) 430-6000

cc: Robert Sutcliffe  
Digital Gene Technologies, Inc.